

SUBCOMMITTEE NO. 4

Agenda

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Part A
Wednesday, May 9, 2007
9:30 a.m. - Room 113
(Consultant: Keely Martin Bosler)

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State Administration—General Government—Judiciary—Transportation

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8550 California Horse Racing Board

Background. The California Horse Racing Board (CHRB) licenses racing industry participants, enforces racing rules related to drugs and other offenses, administers efforts to protect racing horses, and oversees programs to improve the health of jockeys and other industry employees. The CHRB regulates operations at 14 racetracks, 20 simulcast facilities, and advance deposit wagering services (available via telephone or on-line).

Governor's Budget. The Governor's budget proposal includes \$10.8 million to support the CHRB in 2007-08. This is about 4 percent more than is estimated for expenditure in the current year due to one-time information technology hardware purchases proposed in the budget year.

Excess revenues from unclaimed pari-mutuel tickets (Racetrack Security Fund, also called the Special Deposit Fund) are transferred to the General Fund. The Governor's Budget estimates that \$300,000 will be available for transfer to the General Fund.

1. Legal Counsel

Finance Letter. A Finance Letter (dated March 29, 2007) requests one position and \$170,200 to support in-house legal counsel. The board proposes to reduce its contract with the Attorney General by a like amount making this proposal cost neutral.

Staff Comments. The board indicates that by retaining in-house counsel it will be able to develop legal expertise specific to the horse racing industry, which will enable the board to achieve more efficient resolutions and settlements of enforcement issues.

Staff Recommendation. Staff recommends that the Subcommittee approve this Finance Letter proposal.

0250 Judicial Branch

Trial Courts

1. Equal Access Fund Program – Legal Aid

Background. The Equal Access Fund Program provides funds for legal services to assist low-income individuals in civil matters. These funds are distributed to legal aid agencies through the State Bar's Legal Services Trust Fund Program and are overseen by the Judicial Council.

In 2003, the most recent year for which complete data are available, California legal aid centers received \$182 million from state, federal, and private sources. The state provides a relatively small portion of the overall funding for legal aid through the Equal Access Fund and other self-help programs.

Governor's Budget and Finance Letter. The Governor's budget includes about \$16 million in funding from the Equal Access Fund (this is funding in the base budget). A Finance Letter (dated March 29, 2007) requests that the Legislature adopt budget bill language to allow the Department of Finance to augment the funds available for expenditure in the budget year if additional revenues are available after notification to the Joint Legislative Budget Committee.

Staff Recommendation. Staff recommends that the Subcommittee approve the budget bill language for the Equal Access Fund.

2. Access to Justice Pilot Program

Previous Subcommittee Direction. At the March 1 meeting of the Subcommittee, the budget proposal to add \$5 million to fund a pilot project in three Trial Courts to identify and provide legal representation to unrepresented litigants on civil matters was held open.

The LAO recommends rejecting the Governor's proposal to create a new Access to Justice Legal Representation pilot project. The LAO finds creating a new pilot program is not the most efficient means of expanding civil legal services to the poor and that a more efficient approach to expand the civil legal services available to the poor is to provide funding directly to legal aid agencies. Furthermore, the LAO is concerned that this pilot project could lead to significant new costs if expanded to fund legal services for all poor unrepresented litigants in civil cases on a statewide basis.

Staff Comments. Staff finds that the defense of unrepresented individuals in criminal court is a local funding responsibility. Therefore, it is unclear why the state would fund a similar type program for civil litigants. It is also unclear what type of civil cases will be targeted with this funding. For example, will these monies target family court matters or other matters? Furthermore, staff concurs with the LAO that funding legal services for all unrepresented

litigants in civil cases could lead to significant new costs, which would exacerbate the current state budget operating shortfall.

Staff Recommendation. Staff recommends that the Subcommittee reject the pilot project.

Judicial Council/Administrative Office of the Courts

1. Federal Grants—Informational Item

Previous Subcommittee Direction. At the March 1 meeting of the Subcommittee, \$1 million in federal funds was approved for three projects; (1) child data collection, (2) judge and attorney training, and (3) study of elder courts. The Subcommittee also requested additional information on the total amount of the grants and the timeline for the products or projects that are being funded by these monies.

Detail on Federal Grants. The Administrative Office of the Courts (AOC) indicates that approximately \$885,000 has been awarded for a Child Data Collection project that is expected to last through September 2010. This grant is intended to help the courts improve their data analysis and collection in child abuse and neglect and foster care cases. It is intended to help the courts jointly plan with other relevant agencies for the collection and sharing of data related to child welfare.

The AOC indicates that approximately \$904,000 has been awarded for various Judge and Attorney Training and this grant is expected to last through September 2010. This funding is used to support numerous training efforts for judicial officers, attorneys, Court Appointed Special Advocates, court staff, foster parents, foster youth, tribal representatives, and other individuals involved in the dependency court system.

The AOC indicates that approximately \$251,000 has been awarded for a Study of Elder Courts projects. This grant is expected to continue until the end of November 2007 and will fund a stakeholder focus group brainstorming better practices and providing recommended models for improvement.

2. Administrative and Information Technology Services – Technical Adjustment

Background. In the 2006-07 Budget Act, the Legislature deleted \$12.3 million in funding from the Trial Court Improvement Fund and the Trial Court Trust Fund for development and implementation of several information technology systems for the trial courts because it was determined to not be needed in the current budget year because of revised implementation schedules. The 2006-07 Budget Act also included budget bill language that allowed the AOC to increase the amount they expended in the current year to implement these projects.

Governor's Budget. The Governor's budget proposes to restore \$11.6 million in special funds in the budget year to continue implementation of several administrative and information

technology systems for the trial courts. This adjustment includes an \$8.4 million increase from the Trial Court Improvement Fund and a \$3.2 million increase from the Trial Court Trust Fund.

The budget also proposes to restore \$11.6 million in the current year.

The funding will be used to support staffing and related costs associated with the following statewide trial court administrative and information technology services:

Administrative and Information Technology Systems		
<i>In Thousands</i>		
System/Office	Function	Costs
Court Accounting and Reporting System	Implements an information technology system that enables the trial courts to report timely and accurate financial information.	\$5,765
California Case Management System	Supports project management oversight for continued design and development of an integrated trial court case management solution for all case types.	1,782
Court Human Resources Information System	Supports continued design and development of a statewide trial court human resources information system and administrative support.	902
California Courts Technology Center	Supports infrastructure for centralizing court facility technology services, including hosting e-mail, help desk and other services.	728
Data Integration	Supports ongoing efforts to integrate data systems to allow courts to communicate with the counties and the Administrative Office of the Courts.	249
Enhanced Revenue Collection	Supports design and development of an automated fees and collection system within the Case Management System.	547
Regional Office Assistance Group	Supports positions that provide legal advice and assistance directly to the trial courts.	1,615
Total		\$11,588

Previous Subcommittee Direction. This issue was held open at the March 1 meeting of the Subcommittee pending review of an annual report submitted by the AOC on the update of the California Case Management System and the Court Accounting and Reporting System (now referred to as the Phoenix Statewide Financial System).

California Case Management System Update. The AOC has divided the California Case Management System into the following three phases: (1) criminal and traffic module; (2) civil, probate, small claims, and mental health; and (3) a case unification phase to integrate the family law and juvenile case types. The AOC indicates that it has selected vendors to implement the first two phases and has started to implement these modules in some counties. The AOC indicates that it has already implemented the new criminal and traffic module in Fresno County and the court is working with six other counties to implement this module over the next two years. Furthermore, the AOC indicates that it working with five counties to deployed the civil, probate, small claims, and mental health modules. The AOC indicates that it has already deployed the small claims module in San Diego and Sacramento Counties. The AOC is still developing the third phase of the California Case Management System and is working with the Oversight Committee to design the system. The AOC plans to fully implementing the California Case Management System by 2011-12. The AOC indicates that \$271 million has been allocated to implement this project, including \$81.5 million to support the project in the budget year.

Phoenix Financial System Update. The AOC is in the process of implementing a statewide financial system for the judicial branch referred to as the Phoenix Financial System. Implementation of this system includes five steps: (1) creation of a trial court financial policies and procedures manual; (2) establishment of an internal audit unit; (3) installation of a standardized statewide financial system; (4) establishment of the trial court accounting and financials services center; and (5) establishment of a centralized treasury. Before the AOC implements the new financial system it conducts an audit of the court financial operations to ensure that the data being entered into the system is uniform across jurisdictions. The AOC has implemented the new Phoenix Financial System in 45 counties to date. The AOC plans to implementing this system in the remaining 13 counties by 2008-09. The AOC indicates that \$88.4 million has been allocated to implement this project, including \$27.7 million to support the project in the budget year.

Staff Recommendation. Staff recommends that the Subcommittee approve this budget proposal.

Courts of Appeal

1. Information Technology Upgrades

Previous Subcommittee Direction. At the March 1 hearing of the Subcommittee, a budget proposal to augment by \$1.1 million the base budget of the Courts of Appeal for ongoing information technology upgrades was held open. The LAO had requested additional information

and justification from the courts regarding the assumption used to build the information technology upgrade schedule.

LAO Review. The LAO finds that the \$1.1 million assumes a three-year replacement schedule for key information technology equipment. Furthermore, the LAO finds that a five-year replacement schedule is more inline with information technology equipment replacement schedules by other entities in state government. The LAO finds that \$660,000 is all that is needed to ensure key information technology equipment is replaced on a five-year schedule.

Staff Recommendation. Staff recommends that the Subcommittee approve \$660,000 to fund this request.

2. Equipment for New Courthouse - Fourth Appellate District

Previous Subcommittee Action. At the March 1 meeting of the Subcommittee, a budget proposal to fund equipment for the new Fourth Appellate District, Division 3 (Orange County) was approved. The AOC has determined that construction of this facility will not be completed in the budget year since the construction start date has been delayed from March 2007 to September 2007. Staff understands that the AOC has withdrawn this proposal because the non-capital equipment will not be needed in the budget year.

Governor's Budget. The Governor's budget proposal includes \$1.6 million from the Appellate Court Trust Fund. The majority of this funding is one-time and will fund essential non-capital furniture, equipment, and fixtures needed to make the building operational as an appellate court. (Of the total amount, \$2,000 is proposed for ongoing maintenance of equipment.) The proposal will fund the following items:

Item	Costs
Telephone System	\$448,000
Data (Computing) Infrastructure	112,000
New Free Standing Furniture	450,000
Reused or Refurbished Free Standing Furniture (Judges Furniture)	28,000
Bookshelves	198,000
High Density File Storage	272,000
Office Equipment (Copiers and Faxes)	41,000
Audio Visual Equipment	192,000
Security and Access Control Equipment	133,000
Ongoing Maintenance	2,000
Moving and Relocation	120,000
<i>less Architectural Revolving Funds</i>	<i>-400,000</i>
Total	\$1,596,000

Staff Recommendation. Staff recommends that the Subcommittee deny this budget proposal.

3. Court Appointed Counsel Program

Previous Subcommittee Direction. At the March 1 meeting of the Subcommittee, the Governor's budget proposal to provide \$1.6 million General Fund to fully fund the Court Appointed Counsel Program was held open.

Staff Comments. Staff finds that last year the AOC was directed to complete a market rate study to determine competitive reimbursement rates for court appointed counsel. The AOC has not completed this study, but staff understands that it has recently entered into a contract with a consultant to complete the study.

Furthermore, despite recent increases in the rate paid private attorneys that are in the pool for the Court Appointed Counsel Program, these attorneys continue to be paid less than what they were paid in 1989 if you adjust these rates for inflation. These low rates make it difficult to recruit qualified legal staff to take these cases. Furthermore, staff finds that over half of the attorneys in the pool are close to retirement age, which makes it critical to take steps to ensure that there is a sizeable pool of qualified attorneys available to provide court appointed counsel on criminal and juvenile matters before the Courts of Appeal.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:

- Approve the \$1.6 million budget proposal to fully fund the Court Appointed Counsel Program.
- Approve a new \$5/hour increase to the rates paid attorneys in the Court Appointed Counsel Program (total costs of this action are estimated at about \$1.5 million).

Administrative Office of the Courts: Office of Court Construction and Management

1. Appellate Courts Capital Outlay

Finance Letter. A Finance Letter (dated May 1, 2007) requests \$3.1 million from lease revenue bonds for the construction of a new courthouse for the Court of Appeal, Fourth Appellate District, Division 3 (Orange County). The additional funding is needed to cover increased costs attributed to general escalations in the construction market. The funding provided in the 2006-07 Budget Act was based on 2005 estimates and was only inflated to June 2005. Construction on this project is expected to commence September 2007. The total cost of the project is now estimated to be \$25.5 million.

2007-08 Five-Year Infrastructure Plan. The 2007 Five-Year Infrastructure Plan identifies \$26.4 million in appellate court critical deficiencies in the budget year and over \$117 million in projects over the next five years. The budget proposal does not include funding for new court facilities in the Fourth (San Diego) and Sixth (San Jose) Appellate Districts to replace leased space.

Staff Recommendation. Staff recommends that the Subcommittee approve the Finance Letter proposal.

2. Trial Courts Facilities Transfers and Capital Outlay

Previous Subcommittee Direction. At the March 1 hearing of this Subcommittee, the Governor's proposals to start the process for constructing new court facilities were held open. The Subcommittee also requested the following:

- Staff, AOC, LAO, and DOF to work on budget bill language to require approval of the site by the local jurisdiction and the Judicial Council prior to expending funding for working drawings.
- Staff, AOC, LAO, and DOF to work on budget bill language to require the transfer of all relevant court facilities before expending funding on new court projects.
- Staff, the LAO, the AOC, and DOF work together to determine a forum for evaluating the best use of vacated court buildings.

Also at this meeting, the Subcommittee learned that the majority of court buildings (in the hundreds) would not be transferred to the state by the statutory deadline of July 1, 2007.

Status of Trial Court Facilities Transfers. The AOC reports that, as of April 26, 2007, 41 county facilities have been transferred to the state. Another 14 leased facilities have been "consolidated" and are no longer needed to support court operations. The majority of these transfers are a "transfer of responsibility" and do not include a transfer of title to the building. There are still hundreds of court facilities that need to be transferred to the state and will likely not make the statutory deadline.

Governor's Budget and Finance Letters. All of the projects listed above are not proposed for funding in the Governor's budget. Of the totals listed above, the administration has proposed \$35.9 million in the Governor's budget and two Finance Letters (dated March 29, 2007 and May 1, 2007) from the Trial Court Facilities Construction Fund to support the first phases of construction of new trial court facilities. The Governor's budget contains \$19.5 million and the March 29, 2007 Finance Letter requests \$16.4 million. No General Fund monies are proposed for new court facilities in the budget year.

The Finance Letter also proposes budget bill language to require each county to transfer court facilities to the state before funds are released to acquire land to build new court facilities.

The Finance Letter (dated May 1, 2007) requests the re-appropriation of funding for *working drawings and construction* of the following project:

- **Fresno - Sisk Federal Courthouse Renovation.** The Finance Letter (dated May 1, 2007) requests the re-appropriation of \$57.9 million in Trial Court Facilities Construction Fund monies appropriated in 2006. The AOC indicates that the site acquisition has been delayed because several federal agencies have not vacated the building and additional

legal work is required to complete the conveyance of the site from the county to the state. The total cost of this project is expected to be \$61.3 million.

The Governor's budget proposes funding *working drawings* for the following projects and a Finance Letter (date May 1, 2007) also requests re-appropriation of funding for *acquisition and preliminary plans* for these projects.

- **Contra Costa - New East County Courthouse.** The Governor's budget proposal includes \$3.6 million from the State Court Facilities Construction Fund for working drawings to build a new seven-court courthouse in eastern Contra Costa County.

There have been some disagreements about the site for the new courthouse and as a result the site acquisition is estimated to be delayed until spring of 2008. A Finance Letter (dated May 1, 2007) requests re-appropriation of \$1.6 million of the funding provided for acquisition and preliminary plans in the current year due to these delays. Approximately \$9.5 million has been appropriated to date for acquisition and preliminary plans related to this project. The total cost of this project is expected to be \$60.9 million.

The project will replace a four-court courthouse in eastern Contra Costa County. This facility was transferred to the state in May 2006.

- **Plumas and Sierra - New Portola/Loyalton Court.** The Governor's budget proposal includes \$346,000 from the State Court Facilities Construction Fund for working drawings to build a new one-court courthouse in the Sierra Valley of Plumas County to serve both Plumas and Sierra Counties.

There have been delays in the site acquisition due to unforeseen site condition requirements and additional time required to complete the necessary CEQA documentation. A Finance Letter (dated May 1, 2007) requests re-appropriation of \$594,000 of the funding provided for acquisition and preliminary plans in the current year due to these delays. Approximately \$706,000 has been appropriated to date for acquisition and preliminary plans related to this project. The total cost of this project is expected to be \$6 million.

This project will replace a part-time courthouse in Portola and leased space in Loyalton. The Portola courthouse transferred to the state in April 2006.

- **Mono - New Mammoth Lakes Court.** The Governor's budget proposal includes \$725,000 from the State Court Facilities Construction Fund for working drawings to build a new two-court courthouse in Mammoth Lakes, Mono County.

The acquisition of the court site has been delayed in order for the current owner, the U.S. Forest Service, to complete environmental studies, appraisals, and surveys. A Finance Letter (dated May 1, 2007) requests re-appropriation of \$1.7 million of the funding provided for acquisition and preliminary plans in the current year due to delays.

Approximately \$2 million has been appropriated to date for acquisition and preliminary plans related to this project. The total cost of this project is expected to be \$15.1 million.

This project will replace leased space that the court currently occupies in a shopping mall. The leased space was transferred to the state in September 2005.

The Governor's budget and a Finance Letter (dated March 29, 2007) propose funding the *acquisition* phase of the following projects. All of these projects are in the AOC's Immediate Need priority group.

- **Madera - New Madera Court.** The Governor's budget proposal includes \$3.4 million from the State Court Facilities Construction Fund for acquisition to build a new 11-court courthouse in or near the City of Madera. The AOC has not identified a site for the new court building. The total cost of this project is expected to be \$94.7 million.

This project will replace the existing Madera courthouse and Family Court Services leased facility. Combined, these two facilities have seven courtrooms. These two facilities were transferred to the state on April 30 and May 1.

- **San Bernardino - New San Bernardino Court.** The Governor's budget proposal includes \$4.8 million from the State Court Facilities Construction Fund for acquisition to build a new 36-court courthouse in the City of San Bernardino. The AOC has identified property across the street from the historic San Bernardino courthouse for construction of this property, but the site has not been approved by the Judicial Council or the local government. The total cost to the state of this project is expected to be \$303.4 million.

This project will consolidate court operations from nine facilities, seven of which will be vacated due to the project. The following facilities will be vacated after this project is constructed:

- San Bernardino Courthouse Annex (T-Wing)
- Court Executive Office
- Appellate and Appeals North Annex
- Juvenile Delinquency Courthouse
- San Bernardino Juvenile Traffic
- Redlands Courthouse
- Twin Peaks Courthouse

The Rialto caseload that is currently being served in the Fontana Courthouse will be transferred to San Bernardino, along with three judicial positions, thereby vacating half of the Fontana Courthouse.

The county is pursuing the renovation of the historic San Bernardino Courthouse to retrofit the 15-court courthouse into a nine-court courthouse that will handle civil caseloads. The county is also pursuing renovation of 303 Third Street for long-term use for two Child Support Commissioners.

San Bernardino County has agreed to set aside \$8.8 million to help fund the 36-court courthouse project. These monies were redirected from a project to rehabilitate the T-Wing of the San Bernardino Courthouse that has been abandoned. The County is also funding the renovation of the historic San Bernardino Courthouse and 303 Third Street property.

The nine facilities have not yet been transferred to the state, but are expected to be transferred by June 29, 2007.

- **San Joaquin - New Stockton Court.** The Governor's budget proposal includes \$3.3 million from the State Court Facilities Construction Fund for acquisition to build a new 29-court courthouse adjacent to the existing courthouse in downtown Stockton. The AOC has come to a tentative agreement with the City of Stockton to donate the land adjacent to the existing court building, but the site has not been officially designated. The AOC estimates that the value of the land donation from the City of Stockton would be \$1.7 million.

A Finance Letter (dated March 29, 2007) requests an additional \$3.2 million from the State Court Facilities Construction Fund to augment the funding available for acquisition. The increase is due to the need to acquire additional parcels to provide security setbacks and parking. One additional courtroom has also been added to the project making it a 30-court courthouse project. The total cost to the state for this project is expected to be \$231.7 million.

This project will replace the existing 22-court courthouse in downtown Stockton. This courthouse has not been transferred to the state, but transfer is expected by May 10, 2007.

- **Riverside – New Mid-County Region Court.** The Governor's budget proposal includes \$3.3 million from the State Court Facilities Construction Fund for acquisition to build a new 6-court courthouse in or near the City of Banning in Riverside County. The AOC has not identified a site for construction of this new facility. The total cost of this project is expected to be \$56 million.

This project will replace an existing 2-court courthouse in the City of Banning. This courthouse has not been transferred to the state, but transfer is expected by June 2007.

- **Tulare – New Porterville Court.** A Finance Letter (dated March 29, 2007) requests \$4.4 million from the State Court Facilities Construction Fund for acquisition to build a new 9-court courthouse in the City of Porterville. The total cost of this project is expected to be \$81 million.

This project will replace two court facilities with five courtrooms. These facilities have not been transferred to the state, but transfer is expected by May 30, 2007.

- **San Benito – New Hollister Court.** A Finance Letter (dated March 29, 2007) requests \$541,000 from the State Court Facilities Construction Fund for acquisition to build a new

3-court courthouse in the City of Hollister. The AOC indicates that both the city and county have passed resolutions expressing the commitment to donate land worth about \$5.5 million to assist in the construction of the facility. The total cost to the state of this project is expected to be \$5.5 million.

This project will replace the court facilities that are currently within the Civic Center Building in the City of Hollister. This facility has not been transferred to the state, but transfer is expected by June 2007.

- **Calaveras – New San Andreas Court.** A Finance Letter (dated March 29, 2007) requests \$845,000 from the State Court Facilities Construction Fund for acquisition to build a new 4-court courthouse in the City of San Andreas. The total cost to the state of this project is expected to be \$39.6 million.

This project will replace two court facilities (one is a leased modular building). The AOC indicates that the County has written a letter expressing their commitment to provide land worth \$316,000 for this project to be applied to the buy-out of the court-occupied space in an existing county facility. The two court facilities have not been transferred to the state, but transfer is expected by June 2007.

- **Lassen – New Susanville Court.** A Finance Letter (dated March 29, 2007) requests \$1.5 million from the State Court Facilities Construction Fund for acquisition to build a new 3-court courthouse in the City of Susanville. The total cost to the state of this project is expected to be \$35 million.

This project will replace three county court facilities. Transfer of the historic Lassen County Courthouse was completed in July 2006. The transfer of the other two facilities has not been completed, but transfer is expected by June 2007.

Funding Needed to Complete Projects. If all of the projects listed above, go to construction in the next few years, an estimated \$900 million will be needed to complete these projects. The State Court Facilities Construction Fund has revenues of about \$125 million annually and will not be sufficient to fully fund construction of these projects without significant delays. The 2007 Five-Year Infrastructure plan identifies \$151.4 million in trial court critical infrastructure deficiencies in the budget year and over \$9.5 billion in projects over the next five years. The AOC has identified \$2.5 billion of these projects as Immediate Need.

The Governor has proposed \$2 billion in general obligation bonds for new and expanded court facilities. These bonds would help in fully funding the construction costs of the court projects discussed above.

Staff Comments. Staff finds that all court construction projects require approval by the State Public Works Board. The DOF has indicated to staff that it will not allow funds for preliminary plans or working drawings to be released until the site selection is confirmed. This process should safeguard against the premature expenditure of funds on preliminary plans and working drawings.

The Finance Letter (dated March 29, 2007) proposes budget bill language that would restrict the release of funds for acquisition until the county had transferred relevant court facilities to the state. Staff finds that this language (with some minor edits) will help to encourage the transfer of more county facilities to the state, including the negotiations regarding the county facility payments.

There are still considerable questions about what the state will do with the court facilities that transfer to the state from the counties. The AOC estimates that about 200 facilities will be vacated after all of the new facilities are built and existing facilities are transferred. Some of these facilities are leased space or modular buildings that can easily be vacated and some of these facilities will be leased back to the counties. However, in some cases, the courts may need to look at leasing the facility to other tenants and/or selling the facility. The courts currently do not have a formalized plan for dealing with the disposition of properties that transfer to the state. Staff finds that the disposition plans for each facility will vary widely, but more needs to be done to safeguard fiscal resources and ensure that the state can make the best use of these vacated facilities.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:

- Approve the Finance Letter to fund the Fresno Court renovation.
- Approve the Governor's budget proposal for working drawings and Finance Letter to re-appropriate funding for acquisition and preliminary plans for the new court buildings in Contra Costa, Plumas and Sierra, and Mono counties.
- Reject funding for the remainder of the projects listed above funded in the Governor's budget and Finance Letter (dated March 29, 2007).
- Approve amended budget bill language that requires relevant county court facilities be transferred to the state prior to the release of funds for acquisition for the construction of a new court facility.
- Approve placeholder trailer bill language that requires additional certainty about the disposition of the court facilities before they transfer to the state.
- Approve supplemental report language that requires the court to develop and submit disposition plans for all of the facilities transferred to the state. The reports should be submitted to the Legislature with the Governor's budget and should continue until all of the facilities are transferred to the state. The first report should also include recommendations on how the courts will deal with vacated court facilities that the counties do not want to lease. The courts should confer with the Department of General Services when developing these recommendations.

8120 Commission on Peace Officer Standards and Training

1. Tolerance Training

Previous Subcommittee Direction. At the March 22 meeting of the Subcommittee, staff was directed to develop budget bill language, in conjunction with the LAO and DOF, to develop budget bill language to allow for other state law enforcement, including the staff of the California Department of Corrections and Rehabilitation to participate in the Tools for Tolerance training if funding is available.

Staff Comments. It has been indicated to staff that sometimes the Tools for Tolerance training sessions have empty slots that cannot be funded by POST personnel. If this is the case, staff finds that it would be reasonable to fill these empty slots with other state law enforcement, including staff of the California Department of Corrections and Rehabilitation. Staff finds that the Museum of Tolerance has developed a unique professional development program that could be useful for other professionals in state law enforcement.

Staff Recommendation. Staff recommends that the Subcommittee adopt revised budget bill language to allow for other state law enforcement to participate in the Tools for Tolerance training if funding is available.

0552 Office of the Inspector General

1. New Audit Functions

Previous Subcommittee Action. At the March 22 meeting of the Subcommittee, \$1.8 million was approved for expanded audit activities by the OIG. Since then, the department has indicated that the proposal should be reduced by \$51,000 to reflect salary savings for peace officer classifications that are a part of the budget proposal.

Staff Recommendation. Staff recommends that the Subcommittee reduce this proposal by \$51,000.

2. Review of Candidates for Superintendent of Juvenile Correctional Facilities

Previous Subcommittee Action. At the March 22 meeting of the Subcommittee, \$1 million was approved for the OIG to review candidates for appointment as superintendent of a juvenile correctional facility. Since then, the department has indicated that the proposal should be reduced by \$30,000 to reflect salary savings for peace officer classifications that are a part of the budget proposal.

Staff Recommendation. Staff recommends that the Subcommittee reduce this proposal by \$30,000.

0820 Department of Justice

1. Sexual Habitual Offender Program – DNA Analysis

Governor's Budget. The Governor's budget proposes to transfer \$694,000 for support of the DNA analysis component of the Sexual Habitual Offender Program from the Sexual Habitual Offender Program (SHOP) Fund to the General Fund, because revenues to the special fund are insufficient to support all elements of the program.

Previous Subcommittee Direction. At the March 22 meeting of the Subcommittee, the following information was requested on the Sexual Habitual Offender Program:

- List of all of the programs and activities currently supported by the SHOP Fund.
- Description of all programs at DOJ that gather and track data related to this population of sexual offenders.
- Information about how the DNA program currently supported by the SHOP Fund is coordinated with the DNA program established by Proposition 69.

Department Response. The DOJ indicates that there is \$2.9 million estimated to be expended from the SHOP Fund in the current year. The majority of this funding (\$2.1 million) supports components of the Criminal Justice Information System. The department indicates that these monies are used to support an assessment of CDCR records to determine if a paroling inmate is a Sexual Habitual Offender. If they are a Sexual Habitual Offender the DOJ profiles the offender using CDCR data and provides it to local law enforcement.

The remaining funding is used to support DNA databank functions related to quality assurance, verifications, and documentation of DNA hits in the DOJ's Cal-DNA database. The department indicates that these functions are distinct from the Proposition 69 functions, which involve receiving and logging new DNA samples. The department indicates that 70 percent of the DNA databank hits have been for sex crimes.

Staff Comments. Staff finds that the Sexual Habitual Offender Program was created well before recent legislation and initiatives that have radically changes the way we supervise convicted sex offenders. First, Megan's law now requires that certain sex offenders, including Sexual Habitual Offenders, register as sex offender. This information is available to local law enforcement and the public through a public Website. Furthermore, Jessica's Law and legislation enacted in 2006 requires that CDCR parole make significant changes to the way they supervise sex offenders, including GPS tracking of certain offenders for life. Furthermore, CDCR has implemented numerous other changes in its operations in recent years to increase the amount of data on parolees that is shared with local law enforcement. For example, the department is currently implementing an information technology system that enables CDCR parole to share information directly with local law enforcement. Furthermore, CDCR has implemented Parole and Corrections Teams (PACT Teams) around the state to further increase the communication between local law enforcement and CDCR. Given this, it seems like the work is not clear what added value is provided by DOJ's Staff finds that the Sexual Habitual

Offender Program activities related to the Criminal Justice Information System are duplicative of other activities done by CDCR and by DOJ.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:

- Reject the Governor's proposal to add additional General Fund monies to the Sexual Habitual Offender Program.
- Reduce funding for the Criminal Justice Information System to ensure that the Cal-DNA program is fully funded in the budget year.

2. Operations and Maintenance of Forensics Laboratories

Previous Subcommittee Direction. At the March 22 meeting of the Subcommittee, a proposal to add \$793,000 (\$572,000 one-time) to the department's maintenance and repair budget for its forensic laboratories was held open pending additional information. The department has provided additional information on how these monies will be used. The majority of the funding will be used to fund fire suppression and alarm upgrades at seven of the regional forensic laboratories. The remainder of the money will be used to make various repairs to the following facilities: Central Valley, Riverside, Fresno, and Redding. The cost of the repairs is increased by over 42 percent to account for Department of General Services' fees, contingency, and general price escalation.

Staff Recommendation. Staff recommends that the Subcommittee approve the budget proposal to fund operations and maintenance of forensics laboratories.

3. California Witness Protection Program

Previous Subcommittee Direction. At the March 22 meeting of the Subcommittee, the proposal to augment the California Witness Protection Program was held open. The Subcommittee requested that staff, LAO, and DOF look at ways to improve the efficiency and effectiveness of the delivery of witness protection services by looking at witness protection programs managed by the Office of Emergency Services.

Governor's Budget. The Governor's budget proposes \$223,000 from the Restitution Fund to support two new positions to fund increased workload related to the growth of the California Witness Protection Program. The department currently has one full-time staff and two part-time retired annuitants managing this program. The department is requesting two additional support positions to handle the increased workload related to this program. These new staff will more than double the administrative costs of this program from \$150,000 to \$383,000, which is just over 10 percent of the total proposed program expenditures.

Adding additional staff to support the administration of this program results in the department exceeding the 5 percent cap on administrative costs. This cap on administrative costs is required in statute; therefore, the department is proposing trailer bill language to amend current law that limits administrative costs for this program to 5 percent of all program costs.

The department also proposes to increase the local assistance funds available to support this program by \$500,000 from the Restitution Fund. This will increase the funds available for support of this program from \$3 million to \$3.5 million. Given the proposed administrative costs (\$383,000), this would leave \$3.1 million to be allocated to local district attorney's for relocation and protection services.

Staff Comments. Staff finds that the witness protection program managed by the Office of Emergency Services provides sufficiently different services than the program managed by DOJ. The Victim/Witness Assistance Program funds local centers that provide comprehensive assistance to victims and witnesses, including crisis intervention, emergency assistance, property return, and court escort. Whereas, the DOJ's program provides funding directly to local district attorney's to finance relocation and/or protection of witnesses and family members that have been threatened by individuals or criminal organizations.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:

- Approve the budget request to augment administration of this program by \$223,000.
- Approve the trailer bill language proposed by the Governor that removes the cap on administrative costs for this program.
- Approve the budget request to augment grant funding by \$500,000.

4. Two-Party Contracts

Previous Subcommittee Direction. At the March 1 hearing of the Subcommittee, the DOJ's request to implement a limited two-party contract process was held open. Information was also requested on what DOJ was doing to improve the transparency of its contracting process given the stories in the newspapers earlier this year that found that DOJ had incorrectly labeled 1,700 contracts as confidential and, therefore, shielded them from public view.

Governor's Budget. The Governor's budget proposes \$9.4 million for the Legal Services Revolving Fund to implement a two-party contract process to allow the DOJ to enter into contracts directly with expert witnesses, consultants, investigators, court reporters, and other vendors whom are hired to assist in litigation on behalf of DOJ's reimbursable state agency clients. Approximately \$6.2 million would be allocated to the Civil Law Division and \$3.3 million for the Public Rights Division.

Staff Comments. The DOJ indicates that it has taken steps to implement a remedial plan to address the mislabeling of contracts as confidential. The department has issued an Administrative Bulletin (dated March 7, 2007) that tightens the process of reviewing contracts for purposes of labeling them as confidential in the new State Contract and Procurement Registration System. The new system requires staff to provide a written explanation of why any information on contracts should be withheld and the recommendation must be approved by a supervisor with advice from lawyers when needed.

The DOJ indicates that there will continue to be some issues with some contracts in the State Contract and Procurement Registration System because many of DOJ's contracts may be confidential when they are entered into the database, but may become non-confidential later.

This is the case for many of DOJ's confidential contracts for expert witnesses that may be confidential during the early stages of litigation, but may become non-confidential when the identity of the expert is revealed in court proceedings.

Staff Recommendation. Staff recommends that the Subcommittee approve the budget proposal to allow DOJ to use a two-party contract process for up to \$9.4 million from the Legal Services Revolving Fund.

5. Energy Litigation

Previous Subcommittee Direction. At the March 22 meeting of the Subcommittee, additional information was requested from DOJ on the status of the *Williams Energy* settlement monies allocated to funding a program to retrofit schools and other public buildings with renewable energy and energy efficiency projects.

Department Response. The department indicates that the Governor's budget proposal would transfer \$25 million in *Williams Energy* settlement monies from the Ratepayer Relief Fund to the State Energy Conservation Assistance Account so that the California Energy Commission could fund a solar retrofit program for schools and other public buildings. Another \$8 million currently resides in the Litigation Deposit Fund and is also proposed to be transferred to the State Energy Conservation Assistance Account in the budget year. Another \$13 million will transfer to the State Energy Conservation Assistance Account in future years after Williams pays the remainder of its settlement.

This transfer of these funds to be used for solar retrofit and energy efficiency projects on school and other public buildings is being considered by Senate Budget Subcommittee 2.

Governor's Budget. The Governor's budget proposal includes \$6 million from the Ratepayer Relief Fund to support 33 positions (15 attorneys) and \$1.5 million in expert contracts to continue with numerous pieces of litigation related to the California energy crisis. There is no other funding in the DOJ's base budget for these activities.

Staff Recommendation. Staff recommends that the Subcommittee approve the Governor's budget proposal to continue to fund DOJ's litigation team related to the California energy crisis and its aftermath.

6. Construction Related Litigation

Previous Subcommittee Direction. At the March 22 meeting of the Subcommittee, additional workload information was requested from DOJ on a request to add \$549,000 from the Legal Services Revolving Fund to support 3.3 positions (two attorneys) to handle additional state construction related litigation.

Department Response. The DOJ indicates that it has not been adequately staffed to support various state agencies with construction litigation work and as a result has had to turn away

construction-related litigation. For example, in the past, the DOJ turned away litigation related to the construction of Kern Valley State Prison and the Metropolitan Regional Transportation Center. The department anticipates additional work in this area given the significant amount of construction that is forthcoming funded by the bonds approved by the voters in November 2006. Furthermore, staff finds that legislation was recently passed to approve \$7.6 billion for dozens of new prison construction projects.

Staff Recommendation. Staff recommends that the Subcommittee approve the budget request to expand the DOJ's ability to handle construction-related litigation in-house.

7. Natural Resources and Environmental Protection Litigation

Previous Subcommittee Direction. At the March 22 meeting of the Subcommittee, the following additional information was requested from DOJ:

- Information on how the \$1 million General Fund, allocated in the 2006-07 Budget Act, has been allocated.
- Update on the status, timing, and costs of the defense of AB 1493 (Pavley).
- Update on the status of lawsuits related to the preservation of the Headwaters (the state's purchase of over 8,000 acres of old growth redwoods in Northern California).
- Updated list of new natural resource and environmental protection related lawsuits the DOJ is currently pursuing.

Department Response. The DOJ indicates that, in the current year, it has entered into various legal efforts that seek to reduce greenhouse gas emissions, including cases in other states. Presently, the department is involved in nine lawsuits and regulatory proceedings that support the reduction of greenhouse gas emissions. The department indicates that the \$1 million allocated in the 2006-07 Budget Act has helped to support these efforts.

The DOJ indicates that the 2002 legislation that seeks to reduce greenhouse gas emissions from vehicles manufactured in model year 2009 and later, AB 1493 (Pavley), is being challenged by the automakers in three federal court lawsuits. The main challenge was filed in U.S. District Court, Eastern District of California, Fresno. However, this court case was stayed in mid-January to await the U.S. Supreme Court decision on the authority of the Environmental Protection Agency under the Clean Air Act to regulate greenhouse gas emissions from vehicles. In early April 2007, the U.S. Supreme Court found that the Environmental Protection Agency did have the authority to regulate greenhouse gas emissions from vehicles under the Clean Air Act. Given this decision, the DOJ indicates that the court case should resume. The DOJ is also assisting the Vermont Attorney General's Office in a similar case filed by the automakers in Vermont. The other two lawsuits brought by the automakers are expected to be briefed and decided sometime later this calendar year. The DOJ expects appeals in these cases regardless of the decisions.

The DOJ indicates that it is involved in three lawsuits related to the Headwaters agreement. The DOJ is representing the Department of Forestry and Fire Protection and the Department of Fish and Game in its struggle to enforce various regulatory agreements entered into by the Pacific Lumber Company as part of the Headwaters agreement. This case is now at the Supreme Court,

but because of bankruptcy filings by the Pacific Lumber Company the court has stayed this case. The DOJ is also actively seeking to move the venue of the Pacific Lumber Company's bankruptcy proceeding, which is currently in Texas. The DOJ is also defending the State Water Resources Control Board in a lawsuit by the Pacific Lumber Company challenging the water board's authority to regulate water quality impacts of timber harvesting. This case has just started in a Fresno Superior Court.

The DOJ indicates that it plans to pursue the three new natural resources and environmental protection lawsuits that follow:

- ***Pacific Merchant Shipping Association v. Witherspoon***. This lawsuit, in federal court, challenges the Air Resources Board's actions related to regulating air pollution from cargo, tanker, and large passenger ships that dock at California's ports. The DOJ will represent the Air Resources Board's Executive Officer.
- ***Natural Resources Defense Council v. Reclamation Board***. This lawsuit, in Sacramento Superior Court, is challenging the State Reclamation Board's approval of a fill permit for a large-scale luxury residential development called River Islands on Stewart Tract in the Delta. The DOJ will defend the California Reclamation Board.
- ***United States v. 127.60 Acres (Tijuana Fence)***. The U.S. government has declared a taking of lands in San Diego County to construct a new fence along the California-Mexico border. The purchase of the property was financed by the State Coastal Conservancy and the Department of Parks and Recreation. There have been no objections to the condemnation, but there is a dispute over the price the U.S. government should pay for this property. The DOJ will represent the Department of Parks and Recreation in this lawsuit.

Governor's Budget. The Governor's budget proposes \$3.9 million from the Legal Services Revolving Fund to support 16.4 positions (eight attorneys) on a three-year limited-term basis to support extraordinary litigation related to natural resources and environmental protection. This includes \$1.5 million for external consultant funding for experts.

Staff Recommendation. Staff recommends that the Subcommittee approve this budget request.

8. Division of Gambling Control – Technical Fund Shift

Previous Subcommittee Direction. At the March 22 meeting of the Subcommittee, additional information was requested regarding the current reimbursement process at DOJ. The department has provided staff with additional information and has indicated that it currently uses its reimbursement item exclusively for reimbursements from the General Fund. Therefore, the DOJ believes that it will be more transparent to directly fund its tribal gaming activities directly from the Indian Gaming Special Distribution Fund.

Governor's Budget. The Governor's budget proposal requests a permanent technical shift of \$893,000 from reimbursements to the Indian Gaming Special Distribution Fund. This will enable the department to be funded for its investigatory role directly from the Indian Gaming Special Distribution Fund instead of through a reimbursement basis with the Gambling Control Commission.

Staff Recommendation. Staff recommends that the Subcommittee approve the budget proposal to make a technical shift from reimbursements to the Indian Gaming Special Distribution Fund.

9. Consolidated Division of Law Enforcement

Finance Letter. A Finance Letter (dated March 29, 2007) requests the consolidation of the following three divisions:

- Division of Law Enforcement - \$216.6 million
- Division of Gambling – \$20.4 million
- Division of Firearms - \$16.6 million

The DOJ indicates that this consolidation would allow the department to apply consistent policies and procedures within the department for law enforcement personnel. The department indicates that this consolidation will not impact the way the programs are scheduled in the budget, which allows for transparency on the funding for gambling and firearms.

Staff Recommendation. Staff recommends that the Subcommittee approve the Finance Letter proposal.

10. State Bond Counsel

Background. The voters approved \$42.7 billion in bonds in the November 2006 election. Furthermore, the Legislature recently passed \$7.4 billion in revenue bonds for the construction of new prison facilities.

Finance Letter. A Finance Letter (dated March 29, 2007) requests \$1.1 million from the Legal Services Revolving Fund to support 6.3 new positions (four attorneys) that will provide state bond counsel and other public finance work for the increased number of upcoming bond transactions.

Staff Comments. Given the large increase in bond transactions anticipated, staff finds that these additional staff resources are warranted.

Staff Recommendation. Staff recommends that the Subcommittee approve this budget proposal.

5525 California Department of Corrections and Rehabilitation

Health Care Issues

1. *Plata* Lawsuit Compliance

Background. In April 2001, *Plata v. Davis* was filed in federal court contending that the California Department of Corrections and Rehabilitation (CDCR) was in violation of the Eighth (prohibits cruel and unusual punishment) and Fourteenth (right to due process and equal protection) Amendments to the United States Constitution by providing inadequate medical care to prison inmates. Some specific examples of key issues raised in the case include: (1) the lack of nationally recognized medical guidelines for managing inmates with chronic illnesses; (2) inappropriate and inconsistent medical follow-up visits; (3) inadequate number of registered nurses; and (4) poor coordination between medical and custody staff.

In January 2002, the state entered into a settlement agreement, committing to significant changes in the delivery of health care services to inmates. Generally, the settlement agreement focuses on improving inmate access to health care, as well as the quality of health care services provided in the prisons. Under the agreement, independent court-appointed medical experts monitored the implementation of the agreement, and periodically reported to the court on the state's progress in complying with the agreement.

In September 2004, the federal court issued an order finding significant deficiencies in the department's efforts to implement the terms of the settlement agreement and, in June 2005, the federal court decided to appoint a Receiver to manage CDCR's health care system. The Receiver will manage CDCR's health care system until the department proves to the court that it is capable and willing to manage a constitutional health care system or contract out for a similar level of care. The current Receiver, Robert Sillen, was appointed by the federal court in February 2006.

Previous Funding for *Plata* Lawsuit Compliance. To date, the Legislature has provided approximately \$299 million General Fund to implement efforts to improve the medical health care delivery system and comply with the *Plata* lawsuit.

In the 2006-07 Budget Act, the Legislature decided to appropriate \$100 million in unallocated funds that would be expended as directed by the Legislature. The Joint Legislative Budget Committee is notified when the Receiver wishes to allocate these monies. To date, the Joint Legislative Budget Committee has received notifications to transfer \$79 million from the unallocated funds set aside in the 2006-07 Budget Act. The figure below summarizes how the funding has been allocated in the current year.

Plata Litigation-Driven Expenditures
Expenditures Directed by the Receiver
2006-07

<i>(Dollars in Millions)</i>	2006-07
Court order to increase medical staff salaries, except for doctors.	\$24.7
Provide Receiver with enough funding to fund his operating budget for six months.	18.6
Establish 300 LVN positions.	12.3
Software and services to implement the Health Care Contracts Document Management system.	5.7
Receiver's operating budget.	6.3
Establish 41 position at San Quentin for the Receiver's project at San Quentin.	3.0
Establish 90 leadership and tracking health care positions.	2.9
Establish 50 positions at Avenal State Prison	1.5
Establish 35 medical positions at Deuel Vocational Institute	1.2
Establish 16 RN positions at the Correctional Training Facility.	1.2
Establish 20.3 positions at Avenal State Prison and 17.2 positions at Sierra Conservation Center	0.9
Funding to the Office of Facilities Management for EIR on San Quentin Project	0.5
Establish various other positions at San Quentin.	0.2
Establish two nurse positions at Corcoran.	0.1
Total	\$79.0

Current Year Funding. The Governor's budget includes allocation of an additional \$50 million in unallocated funds to be expended upon direction by the Receiver in the current year. This funding is in addition to the \$100 million in unallocated funds allocated in the 2006-07 Budget Act.

The budget also includes \$1.3 million General Fund to provide commensurate salary increases for medical classifications at Division of Juvenile Justice institutions for the current year.

The funding for the Division of Juvenile Justice salary enhancements will likely be included in a Supplemental Appropriations Bill.

Governor's Budget. The Governor's budget proposal includes an additional \$150 million in unallocated funds to be expended upon direction by the Receiver in 2007-08.

In addition, the budget includes the full-year costs of some of the expenditures directed in the current year by the Receiver (see list above). The full-year costs in 2007-08 of expenditures funded in the current year, through January 2007, are \$54.6 million General Fund. This includes

about \$29.6 million to cover the full year costs of the salary increases for various CDCR medical classifications.

The budget proposal does not include additional full-year costs for current year expenditures starting in February 2007.

The budget also includes full-year costs associated with the Division of Juvenile Justice salary enhancements, which is \$1.5 million in the budget year.

Staff Recommendation. Staff recommends that the Subcommittee take the following action:

- Approve \$1.5 million for Division of Juvenile Justice salary increases for medical classifications.

2. *Coleman* Lawsuit Compliance

Background. In June 1991, *Coleman v. Wilson* was filed in federal court contending that CDCR was in violation of the Eighth (prohibits cruel and unusual punishment) and Fourteenth (right to due process and equal protection) Amendments to the United States Constitution by providing inadequate mental health care to prison inmates. *Coleman v. Wilson* alleged that the department's mental health care system was inadequate in several areas, including intake screening, access to care, treatment, and record-keeping.

As a result, in 1994, the Federal Court ordered the department to develop a remedial plan to correct these deficiencies. The plan developed by the department is referred to as the Mental Health Services Delivery System (MHSDS). The intent of the MHSDS is to provide timely, cost-effective mental health services that optimize the level of individual functioning of seriously mentally disabled inmates and parolees in the least restrictive environment. At this time, the court also appointed a Special Master to oversee the implementation of the plan. The current Special Master is J. Michael Keating Jr.

In 1997, CDCR issued a preliminary version of the MHSDS Program Guide, which established preliminary policies and procedures to provide constitutionally adequate mental health services at all CDCR institutions. This Program Guide has been amended several times since 1997 under directives by the federal court. The court has found that successful implementation of the MHSDS Program Guide will require capital improvements at many institutions. The department has developed a Mental Health Bed Plan to address the capital outlay improvements that are needed. An amended version of the Mental Health Bed Plan was released at the end of January 2007.

Previous Funding for *Coleman* Lawsuit Compliance. To date, the Legislature has provided approximately \$158 million General Fund to implement efforts to strengthen the department's mental health services and comply with the *Coleman* lawsuit.

Current Year Funding. The Governor's Budget proposal includes \$24.1 million General Fund to implement various court-ordered actions, immediately, in the current year. These actions include the following:

- **Salary Enhancements.** \$19.2 million General Fund to support salary enhancements for certain mental health classifications. This includes commensurate pay increases for all mental health classifications in the adult institutions, juvenile institutions, and parole operations. Classifications impacted include the following:
 - Chief Psychiatrist
 - Senior Psychiatrist
 - Staff Psychiatrist
 - Chief Psychologist
 - Senior Psychologist
 - Clinical Psychologist
 - Supervising Psychiatric Social Worker
 - Clinical Social Worker
 - Senior Psychiatric Technician
 - Psychiatric Technician
 - Recreation Therapist

These pay increases impacted 1,535 positions in the adult institutions, 71 positions in the juvenile institutions, and 282 positions in parole operations.

- **Reception Center Enhanced Outpatient Program Services.** \$2.8 million General Fund to support partial year funding for 67.7 positions in the current year to deliver treatment to Enhanced Outpatient Program inmates (inmates with serious mental illnesses, such as Schizophrenia) at reception centers.
- **Administrative Segregation Intake Cell Conversions.** \$2 million General Fund to support four positions to oversee the retrofit of the vents in 340 administrative segregation cells in the max-security administrative segregation units (also called stand-alone administrative segregation units). The funding will also be used to design the conversion of an additional 340 cells in regular administrative segregation units to administrative segregation unit intake cells that include, new concrete bed slabs, the elimination of all in-cell protrusions, replacement of light fixtures, and modification of cell doors to increase visibility.

The department indicates that it has redirected \$110,000 in special repair funds in the current year to replace the vent screens in 66 cells in max-security administrative segregation units.

The funding allocations listed above will likely be appropriated in a Supplemental Appropriations Bill in the upcoming months.

In addition, after the budget was enacted in 2006, the Legislature enacted supplemental legislation (SB 1134, Budget) to provide \$35.5 million to partially fund 551.8 new positions established to fund the Revised Program Guide as ordered by the court in the *Coleman* lawsuit.

Governor's Budget. The Governor's budget proposal includes \$112.3 million General Fund to support various court-ordered actions to comply with the *Coleman* lawsuit in the budget year. These proposals include the following:

- **Salary Enhancements.** \$50.6 million General Fund for the full-year costs to support salary enhancements for certain mental health classifications (listed above).

- **Reception Center Enhanced Outpatient Program Services.** \$5.1 million General Fund to support the full-year costs to support 67.7 positions to deliver treatment to Enhanced Outpatient Program inmates at reception centers.
- **Administrative Segregation Intake Cell Conversions.** \$12.8 million General Fund to support the construction associated with converting 340 cells in regular administrative segregation units to administrative segregation intake cells. The required modifications are listed above under current year funding for this project.
- **Revised Program Guide.** \$40.2 million General Fund funds the full-year costs associated with the 551.8 positions funded in SB 1134. This is a \$4.8 million increase above what was allocated in SB 1134.

Savings From Vacancies Likely. The department has historically had a huge problem recruiting qualified mental health staff. The recent pay raises may help to improve recruitment. However, there is generally a shortage of mental health staff statewide. Staff finds that the department continues to have significant vacancies in mental health staff and will likely have some savings in the current year due to the number of vacant positions.

Available Treatment Space at Reception Centers Unknown. The department is in the process of implementing treatment for Enhanced Outpatient Program inmates at Reception Centers. However, it is unclear to staff that there is available space at reception centers for treatment. This is especially a problem at the older reception center institutions (San Quentin State Prison) where there is not a lot of viable space for programming. Furthermore, there is also generally a lack of office space available for the additional clinical staff the department needs to hire to implement these new programs.

Max-Security Administrative Segregation Units. The court in the *Coleman* case has ordered that no inmates in the Mental Health Delivery System (Enhanced Outpatient Program and Correctional Clinical Case Management System) can be held in the new max-security administrative segregation units (also called stand-alone administrative segregation units). The Subcommittee learned, at its April 12 hearing, that the department's in-fill bed plan includes 2,250 additional beds in new max-security administrative segregation units. Staff finds that the construction of these beds does not provide the department with a lot of flexibility since only some inmates can be placed in these units because of the cell design. This means that at institutions that have the max-security administrative segregation units they will have to maintain an alternative administrative segregation unit for the inmates in the Mental Health Delivery System.

Staff finds that before the department builds additional administrative segregation units it may want to modify its design so that they can use these units for the department's entire population, when appropriate.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:

- Request that the department report, by May Revision, on the savings in the current year from staff vacancies.

- Request that the department report, by May Revision, with a strategy to modify the new stand-alone administrative segregation units to be compliant with the Coleman court.
- Approve funding for the salary enhancements.
- Approve funding for the Reception Center Enhanced Outpatient Program.
- Approve funding for the administrative segregation unit intake cell conversions.

3. *Perez* Lawsuit Compliance

Case Summary. In December 2005, *Perez v. Hickman* was filed in federal court contending that CDCR was in violation of the Eighth amendment of the United States Constitution by providing inadequate dental care to prison inmates. Some specific examples of key issues raised in the *Perez* class-action lawsuit include: (1) inadequate numbers of dentists and dental assistants; (2) lack of proper training and supervision of staff; (3) insufficient dental equipment such as examination chairs and x-ray machines; (4) poorly organized inmate dental records; and (5) unreasonably long delays for inmates to receive dental treatment, including prisoners with dental emergencies.

The lawsuit was filed concurrently with a settlement agreement reached between the state and the plaintiffs. The agreement committed the state to implement significant changes in the delivery of dental care services to inmates. The agreement requires the department to implement a number of newly developed policies and procedures at all 33 state prisons over a six-year period, beginning with 14 prisons in July 2006. The agreement focuses on improving inmate access to dental care, as well as the quality of dental care services provided in the prisons. For example, the policies and procedures require the department to treat inmates within specified time frames according to the severity of the dental problem and set standards of care that prison dental staff must provide.

In August 2006, the federal court issued a revised order that, among other things, required a lower dental staff to inmate ratio. Currently, there are 950 inmates to one dentist and one dental assistant. The court has ordered this ratio lowered to 515 inmates. The order also directed the department to prepare a revised implementation plan for complying with the settlement agreement.

Generally, the policies and procedures modify or reiterate existing state regulations. For example, under the agreement, the department is required to provide a dental examination to inmates within 90 days of arriving at an institution from a reception center and provide subsequent examinations annually for inmates over 50 years of age and biennially for inmates under 50. Title 15 of the California Code of Regulations currently requires examinations within 14 days of an inmate's arrival; current requirements for subsequent inmate dental examinations are consistent with the settlement agreement. According to the department, none of the 33 prisons currently complies with the policies and procedures.

Previous Funding for *Perez* Lawsuit Compliance. To date, the Legislature has provided approximately \$35.4 million General Fund to implement efforts to strengthen the department's dental services and comply with the *Perez* lawsuit.

Current Year Funding. The Governor's budget proposal includes \$18.8 million General Fund to implement salary increases for dental classifications. This includes commensurate pay increases for all dental classifications in the adult institutions and juvenile institutions for the following classifications:

- Dental Assistant
- Dental Hygienist
- Dentist
- Oral Surgeon
- Supervising Dental Assistant
- Supervising Dentist
- Chief Dentist
- Regional Dental Director
- Statewide Dental Director

These pay increases will impact 719 positions at adult institutions and 28 positions in the juvenile institutions in the current year.

Governor's Budget. The Governor's budget proposal includes \$78.7 million General Fund to support the following two actions to comply with the *Perez* lawsuit in the budget year. The proposals include the following:

- **Salary Enhancements.** \$57.8 million General Fund (\$2.1 million is for pay parity for dental classifications at the Division of Juvenile Justice) to provide increased salaries for selected dental classifications (see above).
- **New Dental Staffing Ratios.** \$20.9 million General Fund for partial funding to support 231 new positions to meet the new lower inmate to dentist ratios (515:1). This funding will support 77 dental staff and 102 custody staff.

LAO Recommendation. The LAO recommends that the Subcommittee withhold action on the salary enhancements for the dental classifications pending a court order or an amended bargaining unit agreement.

Staff received a letter (dated May 4, 2007) from the Department of Personnel Administration indicating that an addendum to a memorandum of understanding was agreed to by DPA and Bargaining Unit 16 that represents the dental classifications. This addendum would implement the raises detailed in the Governor's budget proposal.

Savings From Vacancies Likely. Staff finds that the department currently has a 57 percent vacancy rate at the first 14 institutions where it has implemented the reduced inmate to dentist staffing ratios. The department has a 40 percent vacancy rate for all of the other institutions. Staff finds that a salary increase would help to fill these vacancies. Staff finds that the department will likely have some savings in the current year due to the number of vacant dental positions.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:

- Request that the department report, by May Revision, on savings in the current year related to salary savings.
- Hold open the salary enhancement proposal pending review of addendum to a memorandum of understanding submitted to the Legislature by the Department of Personnel Administration.
- Approve funding to reduce the inmate to dentist staffing ratio.

Other Issues

1. Classification Services Unit Training

Background. The classification process within CDCR consists of an analysis and review of individual case factors to determine an inmate's placement score, custody level, and work/privilege group. These case factors determine the housing and rehabilitative program eligibility of each inmate.

Governor's Budget. The Governor's budget proposal includes \$800,000 in General Fund to address immediate training needs of correctional counselors and to develop a comprehensive training plan for these classification staff to ensure a greater degree of safety and security.

Staff Comments. Staff finds that classification is a critical step in the process and directly impacts the department's ability to match up inmates with safe living placements and appropriate programming opportunities. Staff finds that, as part of the reducing recidivism plan, the department is planning to implement a pilot project to use the COMPAS assessment to identify risk level and program needs at four reception centers. Staff finds that classification staff will need to be trained on how to use this new information within their existing process.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:

- Hold this issue open.
- Request that the department report at May Revision with a coordinated report on what validations are needed of the COMPAS tool, the timing of those validations, and how they will be utilized by both institutions and parole.

2. Redirection of Positions to the Office of Inspector General

Previous Subcommittee Action. At a March 1 hearing, this Subcommittee approved \$1.8 million in General Fund money to augment the Inspector General's auditing resources.

Governor's Budget. The Governor's budget proposes to redirect 10 office technician positions and \$1.8 million General Fund to support expanded auditing in the Office of the Inspector General. These positions and funding were taken from various program areas throughout the department.

Staff Comments. The administration has not provided information to justify the elimination of these office technician positions. However, the department reports that it currently has a 20 percent vacancy rate in its office technician classification. This equates to approximately 313 vacant positions and \$17 million in salary savings. It is unclear to staff whether the department is using this salary savings to fund other budget items in the current year.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:

- Eliminate 10 office technician positions and reduce the department's budget by \$1.8 million in the budget year.
- Request that the department report on how it is using the salary savings from vacant office technician positions in the current year.

3. Workers' Compensation Staffing

Background. In the 2005-06 Budget Act, the department was provided with 29 positions to coordinate the "Return to Work" program at the department. These positions were created on a limited-term basis to address one-time workload associated with reducing the backlog of Workers' Compensation claims.

Governor's Budget. The Governor's budget includes a proposal to convert 29 limited-term positions to permanent positions. The department is not requesting additional funding for these positions.

Staff Comments. Staff finds that, with the additional positions allocated to the department in the 2005-06 Budget Act, it has been able to employ active claims management strategies to contain workers' compensation expenditures. The department has reviewed a large portion of the low-activity claims and is taking actions to close these claims. In 2005-06, the department had over \$188 million in workers' compensation claims, which was over 40 percent of the total for all state agencies.

Staff Recommendation. Staff recommends that the Subcommittee approve this budget request.

4. New Undersecretary for Program Support

Background. The Subcommittee heard a significant amount of testimony at its March 15 hearing regarding the deficiencies in its core business services. The department currently has one undersecretary that oversees all programs and functions in the department.

Finance Letter. A Finance Letter (dated March 29, 2007) requests \$316,000 to fund a new undersecretary position of program support and two support positions.

Staff Comments. Staff finds that CDCR is one of the largest departments in state government with 65,000 authorized positions and a budget of over \$10 billion General Fund. Staff finds that an additional undersecretary position is justified to help manage a department of this size.

Staff Recommendation. Staff recommends that the Subcommittee approve the Finance Letter proposal to establish a new undersecretary.

5. Solid Cell Fronts

Previous Subcommittee Direction. At the April 12 meeting of the Subcommittee, the following budget proposals were held open:

- **California Institution for Men.** The Governor's budget proposal includes \$5.6 million General Fund for construction to convert 204 cells and 12 showers.

The Finance Letter proposes to increase the amount provided in the Governor's budget by \$588,000 General Fund due to a revised construction cost estimate. The department indicates that, given the shortage of inmate beds, the department has determined that only one-half of one floor will be available to the contractor to work on at a time. This will lengthen the duration of the construction contract from 12 months to 16 months. Total costs for this project are estimated to be \$7.4 million. Of this total, \$1.2 million was appropriated in 2005-06 and 2006-07.

- **California Medical Facility.** The Governor's budget proposal includes \$4.1 million General Fund for construction to convert 126 cells and 6 showers.

The Finance Letter proposes to increase the amount provided in the Governor's budget by \$438,000 General Fund due to a revised construction cost estimate. The department indicates that given the shortage of inmate beds the department has determined that only one-half of one floor will be available to the contractor to work on at a time. This will lengthen the duration of the construction contract from 12 months to 16 months. Total costs for this project are estimated to be \$5.3 million. Of this total, \$759,000 was appropriated in 2005-06 and 2006-07.

Finance Letter. A Finance Letter (dated May 1, 2007) requests the following changes to the projects listed above:

- **California Institution for Men.** The Finance Letter proposes to increase funding by \$675,000 to account for additional costs identified with this project, including replacing the smoke detector system and adding additional observation windows. This will bring the total costs of these modifications to over \$37,000 per cell.
- **California Medical Facility.** The Finance Letter proposes to eliminate new funding (\$4.6 million) for this project in the budget year because of delays and overcrowding.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:

- Approve the budget and Finance Letters (dated March 29, 2007 and May 1, 2007) for solid cell fronts in the budget year.